

STATE OF ILLINOIS



ILLINOIS COMMERCE COMMISSION

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Office of General Counsel

January 31, 2001

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VIA AIRNET EXPRESS

Magalie Roman Salas  
Office of the Secretary  
Federal Communications Commission  
445 Twelfth Street, S. W. Counter TWB 204  
Washington, DC 20554

In Re: Expedited Petition Of The Illinois Commerce Commission To Reset The Mandatory Expiration Date Of Its Temporary Waiver Of 47 C.F.R. Section 52.19(c)(3)(ii) To Reflect The Exhaust Of The 847 NPA, The First Of The Five Area Codes In The Chicago Metropolitan Area To Reach Exhaust

Dear Office of the Secretary:

Enclosed please find the Illinois Commerce Commission's Petition To Reset The Mandatory Expiration Date Of Its Temporary Waiver of 47 C.F.R. Section 52.19(c)(3)(ii). I have included an original and four copies.

I would appreciate acknowledging receipt of the filing by returning a duplicate time stamped copy of this letter in the enclosed self addressed, stamped envelope.

Thank you for your attention to this matter.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read "TRSTL".

Thomas R. Stanton  
Special Assistant Attorney General

TRS/ed  
Enclosures

Copies rec'd 014  
ABCDE

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

**RECEIVED**  
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In the Matter of )  
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Illinois Commerce Commission )  
Petition for Expedited Temporary Waiver of )  
47 C.F.R. Section 52.19(c)(3)(ii) )  
\_\_\_\_\_ )

NSD File No. L-99-65  
CC Docket No. 96-98

**EXPEDITED PETITION OF THE ILLINOIS COMMERCE  
COMMISSION TO RESET THE MANDATORY EXPIRATION DATE  
OF ITS TEMPORARY WAIVER OF 47 C.F.R. SECTION 52.19(c)(3)(ii) TO  
REFLECT THE EXHAUST OF THE 847 NPA, THE FIRST OF THE FIVE AREA  
CODES IN THE CHICAGO METROPOLITAN AREA TO REACH EXHAUST**

**INTRODUCTION**

The Illinois Commerce Commission ("ICC") respectfully requests that the Federal Communications Commission ("Commission") reset the mandatory expiration date of the temporary waiver of the ten-digit dialing requirement previously granted to the ICC to accommodate the recent exhaust NPA 847, the first of the five area codes in the Chicago metropolitan area to reach exhaust. The mandatory expiration date established was based on a projected exhaust date of no later than the first quarter of 2000. Through numbering conservation efforts, the ICC has successfully delayed exhaust in the 847 NPA until this year. Accordingly, the ICC requests that the Commission reset the mandatory expiration date of the temporary waiver for a period not to exceed eighteen months from the activation of the 224 overlay NPA.

## **BACKGROUND**

### **The ICC's Petition for Temporary Waiver**

On August 10, 1999, the ICC filed a petition for expedited temporary waiver of section 52.19(c)(3)(ii) of the Commission's rules. In re Illinois Commerce Commission Petition for Expedited Waiver of 47 CFR Section 52.19(c)(3)(ii), NSD File No. L-99-65, CC Docket No. 96-98, Order (rel. Mar. 2, 2000) ("Order") ¶ 1 (attached hereto as Exhibit 1). In its petition, the ICC explained that the circumstances surrounding area code exhaust in the Chicago metropolitan area justified a temporary waiver of the Commission's 10-digit dialing requirement for the 847, 312, 773, 630, and 708 Numbering Plan Areas ("NPA"). The ICC explained that the Chicago metropolitan area currently is served by five area codes (847, 312, 773, 630, and 708) which were all projected to exhaust, at different times, within an 18-month period, beginning in the fourth quarter of 1999. Order ¶ 4. In response to the dwindling supply of available NXX codes, the ICC ordered that all-services overlays be introduced in each of the five area codes upon exhaust. Id.

When an area code overlay is used to provide area code relief, section 52.19(c)(3)(ii) mandates 10-digit dialing for every telephone call in the geographic area covered by the area code overlay. The ICC indicated its concern that implementing 11-digit dialing (1 + 10-digit dialing in many instances) in piecemeal fashion as each of the five area codes exhausts would 1) create dialing inequities between customers in neighboring Chicago metropolitan area codes; 2) create 10- or 11-digit dialing "islands" and prevent the ICC from implementing uniform dialing in the Chicago metropolitan area; 3) exacerbate disruption and customer confusion; and 4) deny the ICC and carriers additional time to develop and administer a comprehensive education

program informing customers of the impending area code overlays and the corresponding need to dial 10 or 11 digits throughout the Chicago metropolitan area. Id. ¶ 5. As a result, the ICC requested a temporary waiver of the Commission’s mandatory 10-digit dialing rule until the last of the four newly assigned overlay area codes was activated in the Chicago metropolitan area.

The Commission’s March 2, 2000, Order

On March 2, 2000, the Commission granted the ICC’s request for a temporary waiver of ten-digit dialing. The Commission concluded that “Illinois’ need to engage in a customer education program within a geographically contiguous area with minimal dialing ‘islands’ justify[d] a temporary delay of ten-digit dialing.” Order ¶ 5. The Commission found that it would be beneficial to allow a temporary delay in implementing mandatory ten-digit dialing “[g]iven the efforts at conservation undertaken by the Illinois Commission, the uncertain projected schedule for area code exhaust, and the fact that the Chicago metropolitan area comprises a single geographically-defined unit.” Id. ¶ 15.

In granting the ICC a temporary waiver, the Commission acknowledged the concerns of several commenters regarding the duration of the waiver and balanced those concerns against “Illinois’ need to engage in a customer education program within a geographically contiguous area with minimal dialing ‘islands.’” Id. ¶¶ 5, 14. Specifically, the Commission observed:

We agree with commenters that delaying ten-digit dialing until all four planned Chicago area code overlays are deployed could result in an open-ended waiver that could frustrate the pro-competitive policy behind the ten-digit dialing rule. Nevertheless, we acknowledge the need of the Illinois Commission to conduct an efficient, one-time customer education campaign for as many of the customers in the five affected area codes as possible. Therefore, we will require ten-digit dialing to begin in all areas where overlay area codes have been activated at the time the fourth planned area code overlay is activated, but in no event later than April 1, 2001.

Order ¶ 14 (footnotes omitted).

The Commission, by requiring that ten-digit dialing be implemented no later than April 1, 2001 in all areas where overlay codes have been activated, noted that it was essentially granting the ICC more than an eighteen-month delay, from the time of filing (August, 1999) to the original period of exhaust of the 708 NPA projected in the second quarter of 2001. Id. ¶ 14. Alternatively, based on updated forecast data submitted by the ICC on February 16, 2000, the FCC granted the ICC approximately a twelve-month delay. Id. ¶ 4 n.14.

### **DISCUSSION**

When the ICC filed its petition for a temporary waiver of the Commission's ten-digit dialing rule, the first of the five Chicago metropolitan area codes was projected to exhaust in the fourth quarter of 1999. Due to the ICC's successful number conservation efforts, at the time of decision, the most recent forecast data projected the 847 NPA to exhaust after the first quarter of 2000. Id. In response to several commenters' concerns, however, the Commission established a mandatory expiration date for the ICC's temporary waiver of ten-digit dialing (April 1, 2001) in the Chicago metropolitan area. Id. ¶¶ 11, 15. The mandatory expiration date was based on a projected exhaust date of the first area code no later than the first quarter of 2000.

Since receiving the temporary waiver, the ICC has continued its number conservation efforts and until now successfully delayed exhaust in the 847 NPA. On January 17, 2001, however, NeuStar, Inc., in its role as the North American Numbering Plan Administrator ("NANPA"), informed the ICC by letter that the last NXX code in the 847 NPA had been assigned and that the first NXX code in the 224 overlay NPA will be assigned to a service provider on February 16, 2001. Letter dated January 17, 2001, from Kimberly Wheeler to Donna

Caton, Chief Clerk Illinois Commerce Commission (attached hereto as Exhibit 2). NeuStar also indicated that the first NXX code in the 224 overlay NPA will be effective on May 16, 2001. Id.

The ICC's success in forestalling exhaust in the five Chicago metropolitan area codes will likely cause the temporary waiver to expire before activation of a single NXX code in the 224 overlay, the first planned overlay. The Commission's ten-digit dialing rule requires mandatory ten-digit dialing when an area code overlay is used to provide area code relief. Because none of the five affected area codes reached exhaust until now, the ICC did not implement an overlay NPA, and the Commission's ten-digit dialing requirement was not applicable. In short, the ICC's success in delaying exhaust in the five affected area codes generally and the 847 NPA specifically will likely cause the temporary waiver to expire without effect. Therefore, the ICC requests that the Commission reset the mandatory expiration date of the temporary waiver.

The ICC requests that the Commission reset the mandatory expiration date for a period not to exceed eighteen months from the activation of the 224 overlay NPA. In its Order, the Commission indicated that it was granting the ICC more than an eighteen-month delay from the time the petition was filed until the mandatory expiration date, April 1, 2001. Order ¶ 14. Based on the updated forecast data filed by the ICC on February 16, 2000, which showed that the 847 NPA was projected to exhaust after the first quarter of 2000, the Commission at a minimum established a 12-month waiver period. Order ¶ 4 n.14. All of the reasons for granting the temporary waiver remain and none of the concerns identified by the Commission regarding the length of the waiver are implicated by resetting the mandatory expiration date because the ten-digit dialing requirement has not yet been triggered.

The ICC acknowledges the Commission's concern regarding the duration of the waiver and the need for the Commission to establish a mandatory expiration date. See Order ¶ 10

(noting the ICC’s “request is potentially open-ended, which could result in delaying ten-digit dialing longer than the predicted eighteen-month period for exhaustion of the current area codes.”). That concern, however related to increasing the length of the temporary waiver once it became effective upon exhaust of the first of the five area codes in the Chicago metropolitan area. It does not relate to delaying the need for area code relief in the first place. Indeed, the Commission expressly encouraged the ICC’s conservation efforts. Order ¶ 11. To be clear, in this petition the ICC is not requesting that the Commission extend the duration of the temporary waiver beyond the time frame already established. Rather, the ICC is simply requesting that the Commission reset the mandatory expiration date to accommodate the later-than-anticipated start date for the temporary waiver. In other words, the triggering date for the start of the waiver has changed, not the duration of the waiver.

### **CONCLUSION**

For the foregoing reasons, the ICC respectfully requests that the Commission reset the mandatory expiration date of the temporary waiver for a period not to exceed eighteen months from the activation of the 224 overlay NPA. Further, in light of the recently announced exhaust of the 847 area code, the first of the five area codes in the Chicago metropolitan area, the ICC requests expedited action on its petition.

January 31, 2001

Respectfully submitted,

By: 

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# EXHIBIT 1

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of )

Illinois Commerce Commission )

Petition for Expedited Temporary Waiver of )  
47 CFR Section 52.19(c)(3)(ii) )

NSD File No. L-99-65  
CC Docket No. 96-98

ORDER

Adopted: March 1, 2000

Released: March 2, 2000

By the Chief, Common Carrier Bureau:

I. INTRODUCTION

1. On August 10, 1999, the Illinois Commerce Commission (Illinois Commission) filed a petition for expedited temporary waiver of the ten-digit dialing requirement of the Federal Communications Commission's (FCC or Commission) rules governing area code relief (Waiver Petition).<sup>1</sup> The Waiver Petition seeks a delay in implementing ten-digit dialing until the last of four area code overlays is adopted in the Chicago metropolitan area, instead of implementing ten-digit dialing, as required, at the time each area code overlay is activated. The Bureau agrees with the Illinois Commission's concern that ten-digit dialing be implemented with the benefit of a comprehensive public education program about ten-digit dialing, but also believes that it needs to establish a date certain by which time ten-digit dialing is required to be implemented in those areas where overlays have been activated. Accordingly, we will allow the Illinois Commission to delay implementing ten-digit dialing in all areas where overlay area codes have been activated

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<sup>1</sup> Petition of the Illinois Commerce Commission for Expedited Temporary Waiver of 47 CFR Section 52.19(c)(3)(ii), filed August 10, 1999 (Waiver Petition). The Common Carrier Bureau (Bureau) issued a public notice concerning the Waiver Petition on August 16, 1999. See Common Carrier Bureau Seeks Comment on the Illinois Commerce Commission's Petition for Expedited Temporary Waiver of 47 CFR § 52.19(3)(c)(ii), *Public Notice*, DA 99-1631, NSD File No. L-99-65 (Com. Car. Bur., rel. Aug. 16, 1999). Comments on the Waiver Petition were filed on September 16, 1999 by Ameritech, AT&T Corp. (AT&T), MCI WorldCom (MCIW) MediaOne Group (MediaOne), SBC Communications, Inc. (SBC), Sprint, the United States Telephone Association (USTA), and WinStar Communications, Inc. (WinStar). A late-filed comment was received from the Association for Local Telecommunications Services (ALTS) on September 17, 1999, and will be treated as an informal comment. Replies were filed on September 30, 1999, by AT&T, MCIW, and WinStar. On October 1, 1999, the Illinois Commission filed a late reply, which will be treated as an informal comment. Similarly, on October 1, 1999, the Illinois Governmental and Consumer Intervenor (consisting of the City of Chicago, the Citizens Utility Board, and the Public Utilities Bureau, or Illinois Intervenor) filed a late reply; this also will be treated as an informal comment. On October 29, 1999, WinStar filed an *ex parte* notice regarding an October 28, 1999 meeting with Bureau personnel on the waiver request. On February 16, 2000, the Illinois Commission filed an *ex parte* containing the most recent area code projections for exhaust.

until such time as the fourth area code overlay of the four planned overlays is activated, but in no event later than April 1, 2001.

## II. BACKGROUND

2. Section 251(e)(1) of the Communications Act of 1934 (Act), as amended by the Telecommunications Act of 1996 (1996 Act), gives the Commission "exclusive jurisdiction over those portions of the North American Numbering Plan that pertain to the United States," and allows the Commission to delegate to state commissions or other entities "all or any portion of such jurisdiction."<sup>2</sup> In this regard, the *Local Competition Second Report and Order*<sup>3</sup> acknowledged that "states are uniquely situated to determine what type of area code relief is best suited to local circumstances."<sup>4</sup> Section 52.19 of the Commission's rules expressly delegates to the state commissions the authority to resolve matters involving the introduction of new area codes.<sup>5</sup> Section 52.19(c)(3)(ii) provides, however, that "[n]o area code overlay may be implemented unless there exists, at the time of implementation, mandatory ten-digit dialing for every telephone call within and between all area codes in the geographic area covered by the overlay area code."<sup>6</sup>

3. The Bureau previously has considered three requests for waiver of the ten-digit dialing requirement. The Bureau denied two requests from state public utility commissions for a permanent waiver of the ten-digit dialing requirement in the case of the activation of an overlay NPA,<sup>7</sup> and granted one.<sup>8</sup> In both cases where it denied waiver requests, the Bureau did, however,

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<sup>2</sup> 47 USC § 251(e)(1).

<sup>3</sup> Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, *Second Report and Order and Memorandum Opinion and Order*, 11 FCC Rcd 19392 (1996) (*Local Competition Second Report and Order*), vacated in part sub nom. *People of the State of California v. FCC*, 124 F.3d 934 (8th Cir. 1997), rev'd, *AT&T Corp. v. Iowa Util. Bd.*, 119 S.Ct. 721 (1999), reconsideration granted in part and denied in part, 14 FCC Rcd 17964 (1999) (*Third Reconsideration, Local Competition Second Report and Order*).

<sup>4</sup> *Local Competition Second Report and Order*, 11 FCC Rcd at 19517.

<sup>5</sup> 47 CFR § 52.19. Section 52.19(a) gives state commissions the authority to decide whether area code relief will take the form of a geographic split, an overlay, or a boundary realignment. *Id.* It also delegates to state commissions the authority to order central office code rationing in conjunction with area code relief decisions in certain circumstances. *Id.*

<sup>6</sup> 47 CFR § 52.19(c)(3)(ii).

<sup>7</sup> Pennsylvania Public Utility Commission Petition for Expedited Waiver of 47 CFR Section 52.19 for Area Code 412 Relief, DA 97-675, *Memorandum Opinion and Order*, 12 FCC Rcd 3783 (CCB 1997) (*Pennsylvania Order*); New York Department of Public Service Petition for Expedited Waiver of 47 CFR Section 52.19(c)(3)(ii), *Order*, DA 98-1434, 13 FCC Rcd 13491 (CCB 1998) (*New York Order*).

<sup>8</sup> Public Utility Commission of Texas Petition for Expedited Waiver of 47 CFR Section 59.12(c)(3)(ii) for Area

grant temporary delays of seven and eight months for implementing ten-digit dialing, citing three factors: (1) insufficient time to adjust telecommunications networks for the change to ten-digit dialing;<sup>9</sup> (2) insufficient time to educate customers to the change in dialing patterns;<sup>10</sup> and (3) conditions relating to geographic uniformity in the areas affected that weighed in favor of a temporary delay.<sup>11</sup>

4. Five area codes currently serve the Chicago metropolitan area: 312 (downtown Chicago), 773 (the rest of Chicago), 708 (south and southwest suburban), 630 (west suburban), and 847 (north and northwest suburban). In response to the dwindling supply of numbers available in these area codes, the Illinois Commission ordered that area code overlays be introduced upon exhaust.<sup>12</sup> According to the Waiver Petition, these five area codes are expected to exhaust, at different times, within an eighteen-month period, beginning in the fourth quarter of 1999.<sup>13</sup> We note, however, that the projected exhaust dates have changed a number of times, with the most recent schedule projecting the suburban area codes to exhaust first, in 2000 and 2001, with the city area codes projected to exhaust in 2002.<sup>14</sup> As characterized in the Waiver Petition, the seven-digit dialing of telephone numbers in the 847, 312, 630, 708 and 773 area codes must be replaced by ten-digit dialing under the Commission's ten-digit dialing requirement.<sup>15</sup> The

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Code Relief, DA 98-2141, *Memorandum Opinion and Order*, 13 FCC Rcd 21798 (CCB 1998) (*Texas Order*). In the *Texas Order*, the Bureau observed that the Texas commission did not finalize area code relief plans until shortly before exhaust, and consequently, only five months remained in which to prepare customers for the change in local dialing patterns and to program alarm equipment. *Id.* at para. 8.

<sup>9</sup> *Pennsylvania Order* at para. 25 (granting an approximately seven-month delay to implement ten-digit dialing after area code overlay). See also *New York Order* at para. 16 (granting an approximately eight-month delay to implement ten-digit dialing after area code overlay).

<sup>10</sup> *Pennsylvania Order* at para. 25, *New York Order* at para. 16.

<sup>11</sup> *New York Order* at para 15.

<sup>12</sup> The Illinois Commission ordered an all-services overlay in the 847 area code (or Numbering Plan Area, NPA). *Petition for Approval of an NPA Relief Plan for the 847 NPA*, ICC Docket Nos. 97-0192/97-0211 (cons.) (May 11, 1998 at 21 ("May 847 NPA Order"). The Illinois Commission subsequently ordered all-services overlays implemented in the 630 and 708 NPAs and a single all-services overlay implemented in the combined geographic area served by the 312 and 773 NPAs. *Petition for Approval of NPA Relief Plans for the 312, 630, 708 & 773 NPAs*, Interim Order, ICC Docket No. 98-0847 (June 30, 1999) ("June NPAs Order").

<sup>13</sup> Waiver Petition at 5, Illinois Commission reply at 2-3.

<sup>14</sup> According to the most recent forecast data, submitted by the Illinois Commission on February 16, 2000, the 847 area code is expected to exhaust after the first quarter of 2000, followed by area code 630 in third quarter of 2000, and 708 in first quarter of 2001. The city codes, 312 and 773, are both projected to exhaust in the first quarter of 2002.

<sup>15</sup> Waiver Petition at 4.

Illinois Commission now requests that the Commission temporarily waive this requirement until the last of the four newly assigned area code overlays is activated.<sup>16</sup>

5. The Illinois Commission contends that implementing ten-digit dialing as each of the area codes exhausts will: 1) create "dialing inequities" between customers in neighboring Chicago metropolitan area codes; 2) create ten- or eleven-digit dialing "islands," thus preventing the Illinois Commission from implementing uniform dialing in the Chicago metropolitan area; 3) exacerbate disruption and customer confusion; and 4) deny the Illinois Commission additional time to develop and administer a comprehensive education program on the impending overlays and ten- or eleven-digit digit dialing (where necessary to dial between area codes). The Illinois Commission's Waiver Petition is opposed by the Association for Local Telecommunications Services (ALTS); AT&T; MCI WorldCom (MCIW); MediaOne; Sprint; and Winstar. Ameritech; the City of Chicago, Citizens Utility Board, and Public Utilities Bureau (Illinois Intervenors); SBC; and the United States Telephone Association (USTA) support the Waiver Petition. We believe that Illinois' need to engage in a customer education program within a geographically contiguous area with minimal dialing "islands" justifies a temporary delay of ten-digit dialing.

### III. DISCUSSION

6. Pursuant to section 1.3 of the Commission's rules, the Commission may grant a waiver of a provision of its rules upon a showing of "good cause."<sup>17</sup> As construed by the U.S. Court of Appeals for the District of Columbia Circuit, section 1.3 allows the Commission to grant a waiver if special circumstances warrant a deviation from the general rule and such a deviation will serve the public interest. The court noted, however, that the agency must explain why deviation better serves the public interest and articulate the nature of the special circumstances warranting a deviation from the general rule to prevent discriminatory application and to put future parties on notice as to its operation.<sup>18</sup>

#### A. Competition and Equitable Access to Numbering Resources

7. The Commission has concluded that the purpose behind requiring ten-digit dialing when an area code overlay is activated is to ensure that competition is not deterred as a result of

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<sup>16</sup> Waiver Petition at 2, 5.

<sup>17</sup> 47 CFR § 1.3.

<sup>18</sup> *Northeast Cellular Telephone Co., L.P. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (citing *WALT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972)); *Industrial Broadcasting Co. v. FCC*, 437 F.2d 680, 683 (D.C. Cir. 1970).

local dialing disparity.<sup>19</sup> According to the Commission, absent mandatory ten-digit dialing, customers will be deterred from choosing competitors to the incumbent because the incumbent's customers, most of whom have telephone numbers in the old area code, can dial seven-digits to call other users in the old area code, while the competitor's customers will be mostly assigned numbers in the new overlay area code, and will have to dial ten-digits to reach a telephone user in the old code.<sup>20</sup>

8. The Illinois Commission does not contest the FCC's conclusions regarding the pro-competitive effect of ten-digit dialing.<sup>21</sup> Rather, the Illinois Commission's primary concern appears to be avoiding customer confusion as additional overlay area codes are implemented, which it plans to alleviate through a comprehensive public education program about ten-digit dialing.<sup>22</sup> Ameritech, in support of the Waiver Petition, contends that implementing mandatory ten-digit dialing at the beginning of the process, rather than the end, would inconvenience the public without serving any public purpose.<sup>23</sup> Ameritech further claims that customers do not like dialing ten digits, and acquiesce only because it is a regulatory requirement for all-services overlays. Ameritech concludes that to impose mandatory ten-digit dialing before it is required contradicts the public interest the Illinois Commission is trying to protect.<sup>24</sup> Several commenters, however, contend that delaying the implementation of ten-digit dialing may hinder competition and thereby hurt consumers. For example, ALTS argues that consumer discomforts caused by ten-digit dialing are temporary and are outweighed by long-term anti-competitive effects that accompany overlays without ten-digit dialing. Overlays without ten-digit dialing make it difficult to market new services, even if new entrant offers lower prices and better service than the incumbent.<sup>25</sup>

9. The Illinois Commission disagrees. In its reply, it notes that Illinois has been at the forefront of facilitating competitive entry into local markets. In this regard, the Illinois Commission contends that number portability, number pooling and other conservation measures

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<sup>19</sup> *Local Competition Second Report and Order*, 11 FCC Rcd at 19518-19. The Commission recently reaffirmed this rationale in the *Third Reconsideration, Local Competition Second Report and Order*, 14 FCC Rcd at 17990-96.

<sup>20</sup> *Local Competition Second Report and Order*, 11 FCC Rcd at 19518-19

<sup>21</sup> See Illinois Commission reply at 6.

<sup>22</sup> Waiver Petition at 5.

<sup>23</sup> Ameritech comments at 2.

<sup>24</sup> Ameritech comments at 3.

<sup>25</sup> ALTS comments at 3.

in the Chicago metropolitan area mitigate the competitive concerns associated with area code relief identified by the Commission. The Illinois Commission also discards the general claims of adverse competitive effects raised by commenters in opposition to its waiver petition. The Commission recently reaffirmed the pro-competitive purpose behind the ten-digit dialing rule,<sup>26</sup> and we wish to ensure that waiver of this requirement will not result in competitive disadvantage to new entrants in the Chicago metropolitan area, particularly with the large number of existing area codes scheduled to exhaust in this situation.

10. In opposition to the Illinois request, commenters argue that the Illinois Commission's request is potentially open-ended, which could result in delaying ten-digit dialing longer than the predicted eighteen-month period for exhaustion of the current area codes.<sup>27</sup> They argue that this could occur, particularly if the expansion of the number pooling trial in the 847 area code into other area codes is successful.<sup>28</sup> In addition, ALTS argues that, while "dialing disparity" diminishes over time as the number of central office code assignments (to both the incumbent carrier and to competitors in the new area code) grows, there is no parity until there are an equal number of assignments in both area codes. In this case, a waiver that lasts three or more years effectively eviscerates the goal of the requirement by eliminating it when it is needed most.<sup>29</sup> MediaOne, while opposing the Illinois Commission's request, encouraged the FCC to assign a date certain by which ten-digit dialing is required to be implemented, if in fact the FCC grants the Waiver Petition.<sup>30</sup>

11. The Waiver Petition states that the existing area codes in question are expected to exhaust within an eighteen-month period, beginning in the fourth quarter of 1999.<sup>31</sup> We note that the Illinois Commission, with the involvement of consumer advocates in the Chicago region,<sup>32</sup> ordered the implementation of number conservation measures to relieve pressure on the affected

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<sup>26</sup> *Third Reconsideration, Local Competition Second Report and Order*, 14 FCC Red at 17990-96.

<sup>27</sup> ALTS comments at 6, Sprint comments at 1, 4.

<sup>28</sup> ALTS comments at 6, Sprint comments at 4. On the other hand, the Illinois Commission observes that just as pooling may forestall exhaust, increased competition or entry of new competitors could increase the exhaust. Illinois Commission reply at 8.

<sup>29</sup> ALTS comments at 6.

<sup>30</sup> MediaOne comments at 1. *See also* Sprint comments at 1 (not opposed to a waiver of ten-digit dialing until April 1, 2000).

<sup>31</sup> Waiver Petition at 4.

<sup>32</sup> The Consumer Utility Board (CUB), which comprises, in this proceeding, the Illinois Intervenors, in addition to the Public Utilities Bureau, and the City of Chicago.

area codes.<sup>33</sup> We encourage such conservation efforts, and we recognize also that these efforts and the expansion of the pooling trial into other area codes are now being used against the Illinois Commission and its supporters, as evidence of the potential for long-term harm to competition in the Chicago area.<sup>34</sup> We also note, however that we are presented with an uncertain schedule for implementation of the new area codes.<sup>35</sup> Moreover, there is disagreement about factors that could influence this schedule, such as number pooling, which might slow down the rate of exhaust and prolong the lives of area codes,<sup>36</sup> or entry of new competitors or increased competition, which might hasten the rate of exhaust.<sup>37</sup> Whether the existing area codes exhaust more slowly than originally thought, or not, we are concerned that granting what may turn into an open-ended waiver could result in harm to competition, thereby circumventing the purpose behind the ten-digit rule.<sup>38</sup>

#### B. Temporary Delay in Implementing Ten-Digit Dialing

12. In considering previous waiver requests, the Bureau articulated three factors that favor granting temporary delays of mandatory ten-digit dialing. The three factors are: (1) insufficient time to adjust telecommunications networks for the change to ten-digit dialing;<sup>39</sup> (2) insufficient time to educate customers to the change in dialing patterns;<sup>40</sup> and (3) conditions relating to geographic uniformity in the areas affected that weighed in favor of a temporary delay.<sup>41</sup> The first factor is not present here. In fact, commenters opposing the Waiver Petition

<sup>33</sup> The Illinois Commission ordered a number pooling trial in the 847 NPA as a conservation measure at the same time it ordered an all-services overlay in that area code. *NPA 847 Order* at 20-23, 26. The Illinois Commission later ordered number conservation measures, including staggered implementation of number pooling in the 630, 312, 773, and 708 area codes, by February 2000. *June NPAs Order* at 14.

<sup>34</sup> See ALTS comments at 6.

<sup>35</sup> We note that the projected area code exhaust dates and the order in which they exhaust have changed three times from the date of filing the petition for approval of area code relief before the Illinois Commission, on November 13, 1998, to the present. See also Waiver Petition at 2-4 and note 14, above.

<sup>36</sup> ALTS comments at 6.

<sup>37</sup> Illinois Commission reply at 8.

<sup>38</sup> *Local Competition Second Report and Order*, 11 FCC Rcd at 19518-19, *Third Reconsideration, Local Competition Second Report and Order*, 14 FCC Rcd at 17990-96.

<sup>39</sup> *Pennsylvania Order* at para. 25 (granting an approximately seven-month delay to implement ten-digit dialing after area code overlay). See also *New York Order* at para. 16 (granting an approximately eight-month delay to implement ten-digit dialing after area code overlay).

<sup>40</sup> *Pennsylvania Order* at para. 25, *New York Order* at para. 16. See also *Texas Order* at paras. 8-9.

<sup>41</sup> *New York Order* at para 15.



suggest that the Illinois Commission need not wait until adoption of the last area code overlay to implement ten-digit dialing. They contend that switches in the region currently permit ten-digit dialing, obviating the need for network modifications.<sup>42</sup> We agree that there is no network-based need to delay ten-digit dialing in the Chicago area.

13. The latter two factors, however – insufficient time to educate consumers and geographic conditions – are relevant in this case. The Waiver Petition contends that the Chicago metropolitan area, like New York City, constitutes a “single geographically defined unit,” that presents an even greater potential for disruption and customer confusion than does New York, because of the five area codes projected to exhaust within an eighteen-month period.<sup>43</sup> In support, Ameritech also notes that the Chicago metropolitan area constitutes a common media market, and that common implementation of mandatory ten-digit dialing would be less confusing and allow more time for customers to prepare their premises equipment to the ten-digit dialing format.<sup>44</sup> AT&T, however, argues that Ameritech does not provide any evidence that more time is required to educate consumers or to prepare for ten-digit dialing.<sup>45</sup> Other commenters also contend that there is less likelihood of disruption, consumer confusion, and dialing disparities if ten-digit dialing were adopted from the implementation of the first area code overlay, as opposed to the last.<sup>46</sup> Compared to previous temporary ten-digit dialing delays, the scope here, involving five existing area codes, four area code overlays, and an uncertain schedule for exhaust, makes granting the Waiver Petition, as requested, somewhat problematic. Indeed, as ALTS points out, the situation in New York was more limited, involving only two area codes, with overlays scheduled three months apart, with a date-certain by which ten-digit dialing would be implemented in both area codes.

14. We agree with commenters that delaying ten-digit dialing until all four planned Chicago area code overlays are deployed could result in an open-ended waiver that could frustrate the pro-competitive policy behind the ten-digit dialing rule. Nevertheless, we acknowledge the need of the Illinois Commission to conduct an efficient, one-time customer education campaign for as many of the customers in the five affected area codes as possible. Therefore, we will require ten-digit dialing to begin in all areas where overlay area codes have been activated at the time the fourth planned area code overlay is activated, but in no event later than April 1, 2001. In so doing, we are essentially adhering to the single geographic unit rationale expressed in the *New York Order*, where we denied a request for permanent waiver, but

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<sup>42</sup> ALTS comments at 3, MCIW comments at 3, WinStar comments at 4; *see also* AT&T reply at 4.

<sup>43</sup> Waiver petition at 7, Illinois Intervenors at 10.

<sup>44</sup> Ameritech comments at 4.

<sup>45</sup> AT&T reply at 4 and n. 13.

<sup>46</sup> ATLS comments at 7, AT&T comments at 5, MediaOne comments at 2, Sprint comments at 9.

granted a temporary delay in implementing ten-digit dialing.<sup>47</sup> Finally, by requiring that ten-digit dialing be implemented no later than April 1, 2001 in all areas where overlay codes have been activated, we essentially are granting the Illinois Commission more than an eighteen-month delay, from the time of filing, approaching the original period for exhaust projected in the Waiver Petition.<sup>48</sup>

15. This temporary, limited waiver should also allow sufficient time for a metropolitan area-wide public education program, similar to those periods for consumer education allowed in the *Texas Order*,<sup>49</sup> the *New York Order*,<sup>50</sup> and the *Pennsylvania Order*.<sup>51</sup> We encourage the Illinois Commission, however, to implement mandatory ten-digit dialing sooner rather than later, as suggested by a number of commenters, particularly as the metropolitan area-wide education program gathers steam. Given the efforts at conservation undertaken by the Illinois Commission, the uncertain projected schedule for area code exhaust, and the fact that the Chicago metropolitan area comprises a single geographically-defined unit, we find that it would be beneficial to permit a temporary delay in implementing mandatory ten-digit dialing. Accordingly, we will allow the Illinois Commission to delay, temporarily, implementing ten-digit dialing until such time as the fourth planned area code overlay is activated, but in no event later than April 1, 2001.

#### IV. CONCLUSION

16. We find that the Illinois Commission has shown sufficient cause that would justify a limited grant of the requested waiver of the Commission's ten-digit dialing requirement. Accordingly, we grant the Illinois Commission a temporary delay in implementing ten-digit dialing in all areas where overlay area codes have been activated until such time as the fourth planned area code overlay is activated, but in no event later than April 1, 2001. In all other respects, the Waiver Petition is denied.

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<sup>47</sup> *New York Order* at para. 16.

<sup>48</sup> *See* Waiver Petition at 4.

<sup>49</sup> *See Texas Order* at paras. 8-9.

<sup>50</sup> *See New York Order* at para. 16.

<sup>51</sup> *See Pennsylvania Order* at para. 25.

## V. ORDERING CLAUSES

17. IT IS THEREFORE ORDERED, pursuant to sections 1.3 and 52.19 of the Commission's rules, 47 CFR §§ 1.3 and 52.19, and by authority delegated in sections 0.91 and 0.291 of the Commission's rules, 47 CFR §§ 0.91 and 0.291, that the Illinois Commerce Commission may delay, temporarily, implementing ten-digit dialing in all areas where overlay area codes have been activated until such time as the fourth area code overlay is activated, but in no event later than April 1, 2001.

18. IT IS FURTHER ORDERED, pursuant to sections 1.3 and 52.19 of the Commission's rules, 47 CFR §§ 1.3 and 52.19, and by authority delegated in sections 0.91 and 0.291 of the Commission's rules, 47 CFR §§ 0.91 and 0.291, that the petition for expedited temporary waiver filed by the Illinois Commerce Commission is DENIED, EXCEPT TO THE EXTENT GRANTED HEREIN.

FEDERAL COMMUNICATIONS COMMISSION



Lawrence E. Strickling  
Common Carrier Bureau

## EXHIBIT 2

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January 17, 2001

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Donna M. Caton  
Chief Clerk  
Illinois Commerce Commission  
827 East Capitol Avenue  
Springfield, Illinois 62706

Re: Docket No. 98-0497

Dear Ms. Caton:

Pursuant to the Illinois Commerce Commission's ("Commission") February 3, 1999 Order on Rehearing ("1999 Order") and its December 16, 1998 Order ("1998 Order") in the above-referenced docket, NeuStar, Inc., as the North American Numbering Plan Administrator ("NANPA") and on behalf of the Illinois telecommunications industry ("Industry"), notifies the Commission that the last central office ("CO") code in the 847 numbering plan area ("NPA") code has been assigned and that the first CO code in the 224 overlay NPA will be assigned to a service provider 30 days from the date of this notification. The effective date of the first 224 CO code will be 90 days after it is assigned to a service provider.

In its May 11, 1998 Order in Dockets 97-0192 and 97-0211 (Consolidated), the Commission adopted thousands block number pooling and an all services overlay as a back up relief plan for the 847 NPA in the event that number pooling did not forestall exhaust of the 847 NPA. In the 1998 Order, the Commission stated that the irreversible act which would trigger final implementation of the all services overlay is the assignment of the first CO code from the 224 overlay NPA. A three-month customer education period must precede the activation date of the first CO code, and NANPA must notify the Commission prior to the commencement of the education program.<sup>1</sup> In the 1999 Order, the Commission clarified that NANPA should give the Commission and interested parties 30 days advance notice before assigning the first 224 CO code and the

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<sup>1</sup> 1998 Order at 25. See also Petition for Approval of NPA Relief Plans for the 312, 630, 708 and 773 NPAs, Interim Order, Docket 98-0847 (June 30, 1999).

# MORRISON & FOERSTER LLP

Donna M. Caton  
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notice should include the effective date of that code. NANPA received a request for the final 847 CO code and the first CO code in the 224 NPA on January 3, 2001.<sup>2</sup> NANPA facilitated a meeting of the Industry, via conference call, on January 11 and 12, 2001 to discuss the implementation of the 224 NPA and compliance with the Commission's orders.<sup>3</sup> Pursuant to Industry consensus developed during the Industry meeting, this letter will serve as notification to the Commission and interested parties that the first 224 CO code will be assigned on February 16, 2001, 30 days from the date of this letter, and its effective date will occur on May 17, 2001, 90 days after the assignment date. Service providers will begin customer education no later than February 16, 2001.

The Industry also reached consensus to investigate 29 codes that currently are designated as unassignable due to technical reasons or because the assignment of a particular code, such as one that is identical to an adjacent NPA, would create customer dialing confusion. The Industry noted that if this investigation leads to the redesignation of a code to available status, the exhaust of the 847 NPA would be delayed and the implementation dates listed above would change. NANPA will notify the Commission promptly if the Industry determines that any 847 CO codes can be made available for assignment.

Respectfully submitted,



Kimberly D. Wheeler  
Counsel for Lockheed Martin IMS,  
North American Numbering Plan  
Administrator

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<sup>2</sup> NANPA notified the Commission staff by telephone on January 3, 2001 and the Industry on January 4, 2001 that it had received a request for the last 847 CO code.

<sup>3</sup> A copy of the minutes of the January 11 and 12, 2001 meeting, including a list of participants, is attached.